



05-28-04

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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Application No.	10/678,023
Filing Date	October 1, 2003
First Named Inventor	Phyllis A. W. Martin et al.
Art Unit	1651
Examiners Name	Not yet Assigned
Attorney Docket Number	0136.02

Total Number of Pages in This Submission **5****ENCLOSURES (Check all that apply)**

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Fee Transmittal Form<br><input type="checkbox"/> Fee Attached<br><input type="checkbox"/> Amendment/Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Response to Missing Parts /Incomplete Application<br><input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawings<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance Communication to Technology Center (TC)<br><input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> Other Enclosure(s):<br><b>Declaration of Deposit of Biological Material; NRRL Budapest Treaty Deposit Receipt; NRRL Budapest Treaty Viability Statement</b> |
|--|--|---|

Remarks:

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual Name	Margaret A. Connor
Signature	<i>Margaret A. Connor</i>
Date	May 26, 2004

**Certificate of Mailing by Express Mail****Express Mail No. EK 918713620 US**

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" under 37 CFR 1.10 on the date indicated below and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450

Typed or Printed Name	Margaret A. Connor
Signature	<i>Margaret A. Connor</i>
Date	May 26, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Docket No. 0136.02  
U.S. Serial No. 10/678,023

PATENT

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Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450

Depositor's Name: Margaret A. Connor

Depositor's Signature: *Margaret A. Connor*

Appl. No.	:	10/678,023	Confirmation No. 1052
Applicant	:	Phyllis A.W. Martin et al.	
Filed	:	Oct. 1, 2003	
TC/A.U.	:	1651	
Examiner	:	Not yet assigned	
Docket No.	:	0136.02	
Customer No.	:	25278	

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**DECLARATION OF DEPOSIT OF BIOLOGICAL MATERIAL**  
**IN ACCORDANCE WITH 35 U.S.C. 112**

Phyllis A.W. Martin declares as follows:

1. That she is a joint inventor with Ashaki D.S. Shropshire, Dawn E. Gundersen-Rindal and Michael B. Blackburn of the subject matter described and claimed in the above-identified application.

2. That the microorganism described in the above-identified application, namely, *Chromobacterium suttsuga* sp. nov., was deposited under the identification reference name *Chromobacterium* sp. PRAA4-01 on May 9, 2003, under terms of the Budapest Treaty with the Agricultural Research Service Culture Collection (NRRL) National Center for Agricultural Utilization Research, Agricultural Research Service, U.S. Department of Agriculture, 1815 North University Street, Peoria, Illinois 61604 USA and given the accession number NRRL B-30655.

3. That the depository referred to in (2) affords permanence of the deposits and ready accessibility thereto by the public if a patent is granted, under conditions which assure (a) that access to the cultures will be available during pendency of the patent application to one determined by the Commissioner to be entitled thereto under 37 CFR 1.14 and 35 U.S.C. 122, and (b) that all restrictions, if any, on the availability to the public of the cultures so deposited will be irrevocably removed upon the granting of a patent. Copies of the NRRL deposit receipt and viability statement are attached.

4. That the undersigned declares further that all statements made herein of her own knowledge are true and that all statements made on information and belief are believed true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Executed May 13, 2004, 2004

  
PHYLLIS A. W. MARTIN

Enclosures:

NRRL Budapest Treaty Deposit Receipt

NRRL Budapest Treaty Viability Statement



BUDAPEST TREATY ON THE INTERNATIONAL  
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS  
FOR THE PURPOSE OF PATENT PROCEDURES

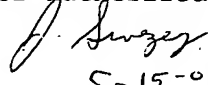
INTERNATIONAL FORM

TO

USDA, ARS, Insect Biocontrol Laboratory  
10300 Baltimore Ave.  
Bldg 011 Range 1 HH-17  
Beltsville MD 20705-2350

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT  
issued pursuant to Rule 7.1 by the  
INTERNATIONAL DEPOSITARY AUTHORITY  
identified at the bottom of this page

NAME AND ADDRESS  
OF DEPOSITOR

<b>I. IDENTIFICATION OF THE MICROORGANISM</b>	
Identification reference given by the DEPOSITOR:  <i>Chromobacterium</i> sp. PRAA4-01	Accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY:  NRRL B-30655
<b>II. SCIENTIFIC DESCRIPTION AND/OR PROPOSED TAXONOMIC DESIGNATION</b>	
The microorganism identified under I. above was accompanied by:  <input type="checkbox"/> a scientific description  <input checked="" type="checkbox"/> a proposed taxonomic designation  (Mark with a cross where applicable)	
<b>III. RECEIPT AND ACCEPTANCE</b>	
This International Depositary Authority accepts the microorganism identified under I. above, which was received by it on May 9, 2003 (date of the original deposit) <sup>1</sup>	
<b>IV. RECEIPT OF REQUEST FOR CONVERSION</b>	
The microorganism identified under I. above was received by this International Depositary Authority on _____ (date of the original deposit) and a request to convert the original deposit to a deposit under the Budapest Treaty was received by it on _____ (date of receipt of request for conversion).	
<b>V. INTERNATIONAL DEPOSITARY AUTHORITY</b>	
Name: Agricultural Research Culture Collection (NRRL) International Depositary Authority  Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A.	Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s):   Date: 5-15-03

<sup>1</sup> Where Rule 6.4(d) applies, such date is the date on which the status of international depositary authority was acquired.



BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT  
OF MICROORGANISMS FOR THE PURPOSE OF PATENT PROCEDURES

INTERNATIONAL FORM

VIABILITY STATEMENT

USDA, ARS, Insect Biocontrol Laboratory  
10300 Baltimore Ave.  
Bldg 011 Range 1 HH-17  
Beltsville MD 20705-2350

issued pursuant to Rule 10.2 by the  
INTERNATIONAL DEPOSITARY AUTHORITY  
identified at the bottom of this page

NAME AND ADDRESS OF THE PARTY TO WHOM  
THE VIABILITY STATEMENT IS ISSUED

<b>I. DEPOSITOR</b>	<b>II. IDENTIFICATION OF THE MICROORGANISM</b>
Name: USDA, ARS, Insect Biocontrol 10300 Baltimore Ave. Bldg 011 Range 1 HH-17 Beltsville MD 20705-2350  Address:	Depositor's taxonomic designation and accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY: <i>Chromobacterium sp.</i> NRRL B-30655 Date of: May 9, 2003 <input checked="" type="checkbox"/> <sup>2</sup> Original Deposit <input type="checkbox"/> <sup>2</sup> New Deposit <input type="checkbox"/> <sup>2</sup> Repropagation of Original Deposit
<b>III. (a) VIABILITY STATEMENT</b>	
Deposit was found: <input checked="" type="checkbox"/> Viable <input type="checkbox"/> Nonviable on (Date) May 10, 2003  International Depositary Authority's preparation was found viable on (Date) <sup>1</sup> May 15, 2003	
<b>III. (b) DEPOSITOR'S EQUIVALENCY DECLARATION</b>	
Depositor determined the International Depositary Authority's preparation was <input checked="" type="checkbox"/> <sup>2</sup> Equivalent <input type="checkbox"/> <sup>2</sup> Not equivalent to deposit on <u>June 16, 2003</u> (Date) Signature of Depositor <u><i>[Signature]</i></u>	
<b>IV. CONDITIONS UNDER WHICH THE VIABILITY TEST WAS PERFORMED (Depositors/Depository)<sup>4</sup></b>	
<b>V. INTERNATIONAL DEPOSITARY AUTHORITY</b>	
Name: Agricultural Research Culture Collection (NRRL) International Depositary Authority  Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A.	Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s): <u><i>[Signature]</i></u>  Date: <u>5-15-03</u>

<sup>1</sup> Indicate the date of the original deposit or when a new deposit has been made.

<sup>2</sup> Mark with a cross the applicable box.

<sup>3</sup> In the cases referred to in Rule 10.2(a)(ii) and (iii), refer to the most recent viability test.

<sup>4</sup> Fill in if the information has been requested.